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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF CHIROPRACTIC

TIME: 9:08 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
2601 North Third Street
Harrisburg, Pennsylvania 17110

January 16, 2020

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State Board of Chiropractic
January 16, 2020

BOARD MEMBERS:

- Joseph Gerard Halloran, D.C., Chair
- Theodore Stauffer, Legal Assistant/Executive Secretary, on behalf of K. Kalonji Johnston, Acting Commissioner, Bureau of Professional and Occupational Affairs
- John E. McCarrin, D.C., Secretary
- William D. Aukerman, D.C.
- Michael S. Swank, D.C.
- Nicole N. Brock, Deputy Attorney General, Consumer Protection
- Miriam Merry Woods, Public Member

BUREAU PERSONNEL:

- Kenneth J. Suter, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Senior Prosecutor in Charge
- Kimberly Adams, Esquire, Board Prosecution Liaison
- Lisa Burns, Acting Board Administrator
- Kimberly Adams, Chief of Fiscal Management, Pennsylvania Department of State, Bureau of Finance Operations

ALSO PRESENT:

- John Mayernick, Esquire, Artz McCarrie Health Law
- Kerry Maloney, Esquire, Post and Schell

1 ***

2 State Board of Chiropractic

3 January 16, 2020

4 ***

5 The regularly scheduled meeting of the State Board
6 of Chiropractic was held on Thursday, January 16,
7 2020. Theodore Stauffer, Legal Assistant/Executive
8 Secretary, on behalf of K. Kalonji Johnson, Acting
9 Commissioner, Bureau of Professional and Occupational
10 Affairs, was not present at the commencement of the
11 meeting.

12 ***

13 Official Call to Order

14 [J. Gerard Halloran, D.C., Chair, called the meeting
15 to order at 9:00 a.m.]

16 ***

17 Approval of Minutes of September 19, 2019.

18 CHAIR HALLORAN:

19 I have reviewed this and I don't find any
20 problems with it. Does anybody else find
21 any problems?

22 [The Board discussed corrections to the Minutes.]

23 CHAIR HALLORAN:

24 Could I have a motion from someone to
25 accept the Minutes of September 19, 2019?

1 DR. AUKERMAN:

2 I will make a motion to accept the
3 minutes.

4 CHAIR HALLORAN:

5 Dr. Aukerman makes a motion to approve
6 the minutes. Second?

7 MS. WOODS.

8 I second.

9 CHAIR HALLORAN:

10 Miriam Woods has seconded it.

11 All in favor of accepting these
12 Minutes say aye?

13 [The motion carried unanimously.]

14 ***

15 Appointment - Budget Presentation with Bureau of
16 Finance and Operations

17 [Kimberly Adams, Chief of Fiscal Management,

18 Pennsylvania Department of State, Bureau of Finance

19 Operations, presented before the Board for discussion

20 of the Board's Budget. She referred members to

21 discussion regarding the licensee population, which

22 was 4,047, falling a total of 230 since 2015. Ms.

23 Adams summarized current Revenues, Expenses and noted

24 the budget for the current fiscal year seemed to be

25 adequate. She explained that any excess monies would

1 remain in the Board's account.

2 Chair Halloran questioned whether there would be a
3 need to increase fees. Ms. Adams suggested that the
4 Board do nothing at this point.]

5 ***

6 [Theodore Stauffer, Legal Assistant/Executive
7 Secretary, on behalf of K. Kalonji Johnson, Acting
8 Commissioner, Bureau of Professional and Occupational
9 Affairs, entered the meeting at 9:25 a.m.]

10 ***

11 [Mr. Suter did not foresee that the Independent
12 Regulatory Review Commission (IRRC) would even approve
13 an increase. There was further discussion regarding
14 the matter.]

15 ***

16 Report of Board Prosecution

17 [Kimberly Adams, Esquire, Board Prosecutor, presented
18 a Consent Agreement for File No. 18-43-02950.]

19 ***

20 [Nicole N. Brock, Deputy Attorney General, Consumer
21 Protection, exited the meeting at 9:22 a.m. for
22 recusal purposes.]

23 ***

24 [Kimberly Adams, Esquire, Board Prosecutor, presented
25 a Consent Agreement for File No. 19-43-010818.]

1 ***

2 [Nicole N. Brock, Deputy Attorney General, Consumer
3 Protection, re-entered the meeting at 9:24 a.m.]

4 ***

5 [Paul Jarabeck, Esquire, Board Prosecutor, presented a
6 Consent Agreement for File No. 19-43-011922.]

7 ***

8 Report of Commissioner

9 [Theodore Stauffer, Legal Assistant/Executive
10 Secretary, on behalf of K. Kalonji Johnson, Acting
11 Commissioner, Bureau of Professional and Occupational
12 Affairs, referred members to a memo regarding the
13 statewide travel change for further discussion.]

14 ***

15 Report of Board Counsel

16 [Kenneth Suter, Esquire, Board Counsel, introduced
17 Lisa Burns, who is filling in for Michelle Roberts as
18 Board Administrator for this meeting.

19 Mr. Suter addressed a few housekeeping matters
20 before giving his report. He and Ms. Roberts were
21 contacted by Providers of Continuing Education (PACE),
22 a system which registers continuing education and
23 courses, to check on the status of the Board's
24 position on the matter. He noted that in 2017 there
25 was a vote of the Board to cooperate with PACE and

1 participate, but he explained that continuing
2 education courses cannot be delegated to another
3 entity.

4 Chair Halloran noted he would address the matter
5 during his report. If the Board did approve PACE
6 doctors, the doctors would still have to reaccredit
7 themselves with the Board and Dr. Swank as Chairman of
8 the Continuing Education. He further stated if he and
9 Dr. Aukerman were approved to attend the next
10 Federation of Chiropractic Licensing Board meeting,
11 they would meet with the PACE staff concerning the
12 matter.

13 Mr. Suter attended the FCLB Annual Educational
14 Congress last year through a scholarship and would be
15 applying to attend again this year. He requested the
16 Board's approve for his attendance. Chair Halloran
17 referred members to the letter for review and
18 approval.

19 Mr. Suter noted Items 5 through 8 on the agenda
20 would be discussed during Executive Session.

21 Mr. Suter discussed Act 41. He recalled that the
22 Board had previously voted on the incompetencies and
23 referred to a memo sent to the Policy Office
24 requesting to implement the Board's previously voted
25 on policy. Mr. Suter received feedback from

1 Regulatory Counsel suggesting, in addition to the
2 National Board Exam, that the Board add the following:
3 or a comparable examination. That the Applicant would
4 have to demonstrate to the Board that the comparable
5 examination was comparable to the Board's examination.
6 And that additionally, the applicant may be required
7 to appear before the Board for an interview. Board
8 members further discussed the suggestion.]

9 CHAIR HALLORAN:

10 I make a motion that we accept the
11 proposed draft for Act 41 Regulations
12 with the addition of adding a segment for
13 having comparable examination from
14 another jurisdiction that could take the
15 place of SPEC or the National Boards.

16 Do I have a second on that?

17 MS. BROCK:

18 I Nicole Brock second that motion.

19 CHAIR HALLORAN:

20 Nicole Brock seconds. We will do an
21 individual vote on this.

22

23 McCarrin, aye; Woods, aye; Brock, aye;

24 Aukerman, aye; Swank, aye; Halloran, aye.

25 [The motion carried unanimously.]

1 ***

2 [Mr. Suter referred members to Regulation 16A-4312,
3 Chiro Specialties Annex Final for further discussion
4 of chiro specialties. Mr. Suter reminded Board
5 members of a rate package from two years ago that went
6 to IRRC, which asked the Board to withdraw the
7 regulation. He suggested that the regulation be
8 withdrawn and that the process be started over. He
9 requested a decision from the Board.

10 There was further discussion regarding amending
11 5(i) of the regulation that read, a specialty Board
12 recognized by the American Board of Chiropractic
13 Specialties, as there was no separate American Board
14 of Chiropractic Specialties.]

15 CHAIR HALLORAN:

16 Motion to withdraw Annex A, Title 49,
17 Professional and Vocational Standards,
18 General Provisions for Chiropractic Board
19 Specialties and place the matter on the
20 next agenda to amend the language that
21 would be acceptable to the Regulatory
22 Boards.

23 Do I have a second on that?

24 DR. AUKERMAN:

25 I'll second that.

1 CHAIRMAN HALLORAN:

2 Let's again do an individual vote.

3

4 McCarrin, aye; Woods, aye; Brock, aye;

5 Aukerman, aye; Swank, aye; Halloran, aye.

6 [The motion carried unanimously.]

7

8 [Mr. Suter referred Board members to HB 2110 for
9 informational purposes and further discussion. He
10 noted the legislation requires each person applying
11 for licensure certification issued by a health-related
12 state board to complete training regarding implicit
13 bias and cultural competency in accordance with the
14 continuing education requirements of the health-
15 related state board. Chair Halloran will provide
16 information in his report to clarify this matter.

17 Mr. Sutter referred Board members for
18 informational purposes to a letter from the Board
19 Chair to the Secretary of Health regarding the opioid
20 crisis and epidemic.]

21

22 Report of Board Chair

23 [J. Gerard Halloran, D.C., Chair, referred members to
24 information concerning the state email site and
25 requested that any problems be reported to the Board

1 Administrator.

2 He noted, with regard to the updated travel
3 polices, the state emphasizes the use of ADTRAV
4 866-530-8899 following approval by the Governor's
5 Office as Board members cannot go on the website until
6 updates are finished. Chair Halloran reminded Board
7 members to use the Pennsylvania Tax Exemption
8 Certificate when checking into a hotel.

9 Chair Halloran requested approval of his and Dr.
10 Aukerman's attendance at the Federation of
11 Chiropractic Licensing Boards' Annual Meeting in
12 Denver, Colorado, April 23-26, 2020. He further
13 requested approval of a letter to the Federation of
14 Chiropractic Licensing Boards of Directors requesting
15 that Board Counsel, Kenneth Suter, also attend. Mr.
16 Suter commented that the FCLB's focus this year was on
17 sexual boundary issues and suggested representation
18 from both the Board and Counsel at the meeting. There
19 was further discussion regarding the matter.

20 Dr. Swank discussed the FCLB PACE program
21 obtaining approval from the Board. Mr. Suter
22 suggested a conference call that would include
23 himself, the Board, the Commissioner, and Board
24 Administrator to clear up any confusion regarding the
25 matter.

1 Chair Halloran referred Board members to HB 2110
2 for further discussion. He distributed lecture notes
3 on the subject from his medical careers class for
4 review. Chair Halloran referred members to
5 advocatehealth.com for further information regarding
6 cultures and religions. He noted that discussion
7 regarding the matter would continue at future Board
8 meetings.

9 There was discussion related to expanding the
10 Board's website to include articles from members on
11 various Board topics. Dr. McCarrin suggested that the
12 matter be discussed further in Executive Session. Ms.
13 Burns commented that a newsletter would be most
14 beneficial and offered further justification.

15 Chairman Halloran noted that his, Dr. Aukerman's
16 and Dr. Swank's commissions were up March 2020. All
17 indicated a willingness to serve another term. Mr.
18 Suter requested that Mr. Stauffer notify the
19 Commissioner that all three were interested in serving
20 another term.

21 Dr. McCarrin noted there was an opening on the
22 Board for one public official and one chiropractor.]

23 ***

24 Old Business - None

25 ***

1 New Business

2 CHAIR HALLORAN:

3 I'm going to make a motion that I and Dr.
4 Aukerman be approved to travel to the
5 Federation of Chiropractic Licensing
6 Board's Annual Meeting in Denver,
7 Colorado, April 22-26, 2020.

8 If the Board approves, both he and
9 Dr. Aukerman will submit a proposal for a
10 travel approval with the Governor's
11 Office. And upon getting that approval,
12 will work with ADTRAV to make sure that
13 we get travel arrangements done for that.

14 DR. SWANK:

15 Second, Dr. Swank.

16 CHAIR HALLORAN:

17 Dr. Swank seconds. All in favor, aye?

18 [The motion carried unanimously.]

19 ***

20 CHAIRMAN HALLORAN:

21 The second motion is I am asking the
22 Board's approval to have Board Counsel
23 Kenneth Suter accompany us. And we will
24 see if Federation of Chiropractic
25 Licensing Board will extend to him a

1 travel scholarship to attend that
2 meeting.

3 So I would like to make this proposal
4 that our Board approves Kenneth Suter
5 traveling to the Federation of
6 Chiropractic Licensing Board's Annual
7 Meeting in Denver, Colorado, April 22-26,
8 2020 to lend his expertise from our
9 state. So is there a second on that?

10 DR. SWANK:

11 Second, Dr. Swank.

12 CHAIR HALLORAN:

13 Second Dr. Swank. All in favor, aye?

14 [The motion carried unanimously.]

15 ***

16 [Chair Halloran stated the FCLB asked him to consult
17 with this Board about addressing challenges such as
18 cultural competency, boundary issues, specialties, the
19 endorsement issue, animal chiropractic, dry needling,
20 and delegation.

21 Mr. Jarabeck was hesitant to go too far into the
22 topics, particularly topics that may already be in
23 front of the Board. The topics discussed during the
24 meeting would be presented by Prosecution to this
25 Board.]

1 ***

2 Miscellaneous

3 Technology

4 [Chair Halloran commented that most of the PALS issues
5 have been worked out and the system is working well.

6 It was noted that communication outreach for
7 licensees could be improved by way of a newsletter.

8 No advice for other Boards was offered.

9 Suggestions for improving FCLB services will be
10 discussed in committee.]

11 ***

12 [The Board recessed from 10:35 a.m. until 10:40 a.m.,
13 after which it entered into Executive Session.]

14 ***

15 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
16 10:40 a.m. the Board entered into Executive Session
17 with Kenneth J. Suter, Esquire, for the purpose of
18 conducting quasi-judicial deliberations. The Board
19 returned to open session at 12:02 p.m.]

20 ***

21 MOTIONS:

22 CHAIR HALLORAN:

23 For File No. 18-43-02950, Dr. Aukerman,
24 could you make a motion to start that
25 off?

1 DR. AUKERMAN:

2 I'd like to make a motion to reject
3 Consent Agreement File No. 18-43-02950 as
4 too lenient.

5 CHAIR HALLORAN:

6 Is there a second?

7 MS. WOODS:

8 Second, Woods.

9 CHAIR HALLORAN:

10 Merry Woods has seconded it. Let's do an
11 individual voice vote.

12

13 Dr. McCarrin, aye; Woods, aye; Brock,
14 aye; Aukerman, aye; Swank, aye; Halloran,
15 aye.

16 [The motion carried unanimously.]

17

18 [Nicole Brock, Consumer Protection Member, exited the
19 meeting at 12:08 for recusal purposes.]

20

21 CHAIR HALLORAN:

22 File No. 19-43-010818. I want to note
23 for the record that Nicole Brock,
24 Consumer Protection Member, has left the
25 room to recuse herself from this vote.

1 011922.

2 DR. SWANK:

3 Dr. Swank, second.

4 CHAIR HALLORAN:

5 We'll have a voice vote.

6

7 Dr. McCarrin, aye; Woods, aye; Brock,
8 aye; Aukerman, aye; Swank, aye; Halloran,
9 aye.

10 [The motion carried unanimously.]

11 ***

12 CHAIR HALLORAN:

13 File No. 16-43-12611.

14 DR. MCCARRIN:

15 File No. 16-43-12611, I would like to
16 approve an Adjudication and Order.

17 CHAIR HALLORAN:

18 Do we have a second on that?

19 MS. WOODS:

20 Woods, second.

21 CHAIR HALLORAN:

22 Let's do a voice vote on that.

23

24 Dr. McCarrin, aye; Woods, aye; Brock,
25 aye; Aukerman, aye; Swank, aye; Halloran,

1 aye.

2 [The motion carried unanimously.]

3 ***

4 CHAIR HALLORAN:

5 File No. 19-43-008675. I want to direct
6 our Board Counsel to adopt the Proposed
7 Adjudication and Order with the potential
8 provision for addressing end of probation
9 and the exception of the Respondent and
10 the Commonwealth included in that.

11 Could I have a second to that motion?

12 DR. SWANK:

13 Swank, second.

14 CHAIR HALLORAN:

15 Dr. Swank has seconded the motion.

16 Let's do a voice vote.

17

18 Dr. McCarrin, aye; Woods, aye; Brock,
19 aye; Aukerman, aye; Swank, aye; Halloran,
20 aye.

21 [The motion carried unanimously.]

22 ***

23 CHAIR HALLORAN:

24 John?

25 DR. MCCARRIN:

1 File No. 19-43-007211. A motion to
2 delegate to Hearing Examiner.

3 CHAIR HALLORAN:

4 Do I have a second?

5 DR. AUKERMAN:

6 Aukerman, second.

7 MR. SUTER:

8 If I can just add a little language to
9 your motion, for a Proposed Adjudication
10 and Order.

11 CHAIR HALLORAN:

12 We have a motion and we have a second.
13 We'll have a voice vote.

14

15 Dr. McCarrin, aye; Woods, aye; Brock,
16 aye; Aukerman, aye; Swank, aye; Halloran,
17 aye.

18 [The motion carried unanimously.]

19

20 CHAIR HALLORAN:

21 File No. 17-43-12391. I would like to
22 make a Motion to enter a Default and
23 Motion to Deem Facts Admitted. Could I
24 have a second on that?

25 MS. BROCK:

1 Nicole Brock seconds it.

2 CHAIR HALLORAN:

3 Nicole Brock has seconded it. Can I have
4 a voice vote?

5 Dr. McCarrin, aye; Woods, aye; Brock,
6 aye; Aukerman, aye; Swank, aye; Halloran,
7 aye.

8 [The motion carried unanimously.]

9 ***

10 Election of Officers

11 CHAIR HALLORAN:

12 We need to talk about election of
13 officers, particularly Chairman and
14 Secretary. Do we have any motions?

15 DR. MCCARRIN:

16 I'd like to motion Dr. Halloran for
17 Chairman.

18 DR. AUKERMAN:

19 I'll second it, Aukerman.

20

21 Dr. McCarrin, aye; Woods, aye; Brock,
22 aye; Aukerman, aye; Swank, aye; Halloran,
23 aye.

24 [The motion carried unanimously.]

25 ***

1 MS. WOODS:

2 I'd like to nominate Dr. John McCarrin
3 for Secretary.

4 CHAIR HALLORAN:

5 I would second that. Let's do a voice
6 vote.

7
8 Dr. McCarrin, aye; Woods, aye; Brock,
9 aye; Aukerman, aye; Swank, aye; Halloran,
10 aye.

11 [The motion carried unanimously.]

12 ***

13 MR. SUTER:

14 The purpose of the Executive Session that
15 we were previously in was to discuss
16 Items 2, 3, 4, 5, 6, 7 and 8 on the
17 Board's agenda.

18 ***

19 MR. SUTER:

20 This is just a housekeeping item.
21 Usually when we elect officers I like to
22 make sure we go through the respective
23 committees of the Board and ascertain if
24 the committee members are still going to
25 serve, if they're willing to serve and if

1 the Board wants to reappoint them.

2 So we have three committees at this
3 point. We have the Continuing Education
4 Committee that Mike is serving on. We
5 have the Act 41 Committee that Jerry is
6 serving on. And we have the Probable
7 Cause Screening Committee that Nicole is
8 serving on.

9 It's up to the Board to decide what
10 they want to do.

11 CHAIR HALLORAN:

12 First of all, I would like to ask, would
13 everybody just mentioned like to serve in
14 that capacity again for another year? I
15 would, Nicole Brock is saying yes, Dr.
16 Swank is saying yes.

17 So by voice acclamation I would like
18 to make a proposal that we accept those
19 committee chairs and those committees as
20 is still constituted. Could I have a
21 second on that?

22 DR. MCCARRIN:

23 Second.

24 CHAIR HALLORAN:

25 Second by Dr. McCarrin. All in favor say

1 aye?

2 [The motion carried unanimously.]

3 ***

4 Miscellaneous

5 Board Meeting Dates

6 [It was noted the 2020 meeting dates were voted on
7 previously.]

8 ***

9 CHAIR HALLORAN:

10 Can I entertain a motion for adjournment?

11 DR. MCCARRIN:

12 McCarrin, motions for adjournment.

13 Anybody second that?

14 DR. AUKERMAN:

15 I'll second.

16 CHAIR HALLORAN:

17 All in favor say aye?

18 [The motion carried unanimously.]

19 ***

20 [There being no further business, the State Board of
21 Chiropractic Meeting adjourned at 12:18 p.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Chiropractic meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Chiropractic meeting.



Hyun Soo Lee,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CHIROPRACTIC
REFERENCE INDEX
January 16, 2020

	TIME	AGENDA
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6		
7	9:00	Official Call to Order
8		
9	9:02	Adoption of Minutes
10		
11	9:03	Appointment - Budget Presentation -
12		Bureau of Finance and Operations
13		
14	9:14	Report Of Board Prosecution
15		
16	9:27	Report of Commissioner
17		
18	9:28	Report of Board Counsel
19		
20	9:56	Report of Board Chair
21		
22	10:25	New Business
23		
24	10:30	Miscellaneous
25		
26	10:35	Recess
27	10:40	Executive Session
28	12:02	Return to Open Session
29		
30	12:08	Motions
31		
32	12:15	Election of Officers/Committee Members
33		
34	12:17	Miscellaneous
35		
36	12:18	Adjournment
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